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8
9 **UNITED STATES DISTRICT COURT**
10 **DISTRICT OF NEVADA**

11 SUZANA PASTOR,

12 Plaintiff,

13 v.

14 BANK OF AMERICA, N.A.; GREEN TREE
15 SERVICING, LLC; DEPARTMENT STORES
16 NATIONAL BANK; and EQUIFAX
INFORMATION SERVICES, LLC,

17 Defendants.

Case No.: 2:15-cv-02406

**PETITION FOR REMOVAL OF ACTION
TO FEDERAL COURT**

18 Defendant Bank of America, N.A. (**BANA**) removes the action filed in the Eighth Judicial
19 District Court of Clark County, Nevada as Case No. A-15-722669-C pursuant to 28 U.S.C. §§ 1331,
20 1441 and 1446, to the United States District Court for the District of Nevada, and as grounds for
21 removal, state as follows:

22 **BACKGROUND**

23 1. Plaintiff Suzana Pastor (**Plaintiff**) filed her complaint on or about August 5, 2015,
24 against defendants BANA, Green Tree Servicing, LLC (**Green Tree**), Department Stores National
25 Bank, and Equifax Information Services, LLC (**Equifax**). Plaintiff asserts one cause of action for
26 violation of the Fair Credit Reporting Act (**FCRA**). (*See* Complaint, ¶¶ 79-82.)

27 2. The Eighth Judicial District of Clark County is a state court within this district and
28

1 division.

2 3. This case is properly removable pursuant to 28 U.S.C. § 1331, which provides that
3 “[t]he district courts shall have original jurisdiction of all civil actions arising under the Constitution,
4 laws, or treaties of the United States.”

5 4. This Petition for Removal is timely pursuant to 28 U.S.C. § 1446(b), which provides,
6 in pertinent part, as follows:

7 The notice of removal of a civil action or proceeding shall be filed
8 within thirty days after the receipt by the defendant, through service or
9 otherwise, of a copy of the initial pleading setting forth the claim for
10 relief upon which such action or proceeding is based, or within thirty
11 days after the service of summons upon the defendant if such initial
12 pleading has then been filed in court and is not required to be served
13 on the defendant, whichever period is shorter.

14 5. Plaintiff served BANA with the Summons and Complaint in this case on November
15 18, 2015. Copies of all process, pleadings, and orders served on BANA are attached hereto as
16 **Exhibit A** pursuant to 28 U.S.C. § 1446(a).

17 6. Upon information and belief, Plaintiff has not served any other defendant in this
18 action.

19 7. BANA timely filed this petition for removal within thirty (30) days of the time that it
20 was served. *See* 28 U.S.C. § 1446(b). Lastly, this action was commenced less than one (1) year ago.

21 **FEDERAL QUESTION JURISDICTION**

22 8. BANA removes this case pursuant to 28 U.S.C. § 1331 because this action “arises
23 under the Constitution, laws, or treaties of the United States.” 28 U.S.C. § 1331.

24 9. A federal question can arise in two instances: (1) when federal law creates a
25 plaintiff’s right to relief and (2) when state law creates “the plaintiff’s right to relief” but the
26 resolution of the case “necessarily depends . . . of a substantial question of federal law.” *Franchise*
27 *Tax Bd. v. Construction Laborers Vacation Trust*, 463 U.S. 1, 28 (1983).

28 10. Plaintiff’s Complaint alleges a single cause of action for violation of the FCRA, 15
U.S.C. § 1681 et seq. (Compl. ¶¶ 79-82.) As such, this matter is properly removable as the
Complaint is based on alleged violations of federal law.

ALL PROCEDURAL REQUIREMENTS FOR REMOVAL HAVE BEEN MET

11. This case is a civil action within the meaning of the Acts of Congress relating to the removal of causes.

12. BANA has not previously removed this action.

13. Removal at the present time will not result in any prejudice to Plaintiff as the matter is in the initial pleading stage, and no discovery has occurred.

14. Nothing in this Petition for Removal shall be interpreted as a waiver or relinquishment of BANA's rights to assert any defense or affirmative matter, whether pursuant to FED. R. CIV. P. 8(c), FED. R. CIV. P. 12(b), or otherwise, including, but not limited to, the defenses for failure to state a claim upon which relief can be granted or insufficient service of process. BANA intends no admission of fact, law or liability by this petition and notice, and expressly reserves all defenses, motions and/or pleas.

15. BANA reserves the right to supplement its Petition for Removal by adding any jurisdictional defenses which may independently support a basis for removal.

16. A copy of this Petition for Removal is being filed with the Clerk of the District Court of Douglas County, Nevada, as provided under 28 U.S.C. § 1446. BANA will also give prompt written notice to Plaintiff of the filing of this Petition for Removal.

CONCLUSION

WHEREFORE, BANA respectfully requests that this Court take jurisdiction of this action and issue all necessary orders and process to remove this action from the District Court of Clark County, Nevada to the United States District Court for the District of Nevada.

DATED this 16th day of December, 2015.

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 16th day of December, 2015 and pursuant to FRCP 5, I served via CM/ECF and/or deposited for mailing in the U.S. mail a true and correct copy of the foregoing, **PETITION FOR REMOVAL OF ACTION TO FEDERAL COURT**, postage prepaid and addressed to:

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